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INTERNATIONAL SWIMMING LEAGUE LTD.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT

INTERNATIONAL SWIMMING LEAGUE LTD.

Case No.

**COMPLAINT FOR VIOLATION OF
17 U.S.C. §512(F) AND FOR
DECLARATORY RELIEF**

v.
DOES 1 through 10,
Defendant

Plaintiff International Swimming League Ltd (“ISL”) for its Complaint alleges on information and belief as follows:

JURISDICTION AND VENUE

1. This Court has exclusive jurisdiction over this claim under 28 U.S.C. §§ 1331 and 1338(a) because it arises under the Copyright Act, 17 U.S.C., §§ 101 *et seq.*

2. This court has personal jurisdiction over the defendants (“Doe”).

3. Venue for this Complaint is appropriate within this judicial district pursuant to 28 U.S.C. § 1391(b) and § 1400(a).

THE PARTIES

4. ISL is a corporation organized and existing under the laws of Switzerland.

5. Doe is an entity who, on information and belief, has taken action in this district, namely, in San Bruno, California, by filing a takedown notice with Google Inc.’s YouTube service (“YouTube”) at the URL https://www.youtube.com/copyright_complaint_form (the “YouTube Takedown Process”). The additional Doe defendants are those entities and/or individuals working with and/or at the request of Doe.

GENERAL ALLEGATIONS

6. ISL re-alleges and incorporates by reference each and every allegation contained in paragraphs 1-5 of ISL's Complaint above as though fully set forth herein.

7. ISL has founded a new professional swim league and has released various press releases, including video content that it created and to which it owns all right, title, and interest, regarding the league, its inception, and planned events (the “ISL Content”).

8. SwimSwam Partners, LLC (“SwimSwam”) is a swimming news media outlet, and offers the world’s most viewed swimming website at www.swimswam.com. SwimSwam also operates a video channel on YouTube at <https://www.youtube.com/user/SwimSwamTV> (the “SwimSwam Channel”).

9. SwimSwam posted the ISL content on the SwimSwam Channel.

10. On or about October 10, 2018, SwimSwam received notice from YouTube that YouTube had removed the ISL Content from the SwimSwam Channel pursuant to a takedown notice which YouTube received through the YouTube Takedown Process, and that YouTube had issued a “strike” against SwimSwam’s YouTube account.

11. On or about October 22, 2018, SwimSwam filed a counter-notice under YouTube's DMCA takedown process, and the ISL Content was reposted.

12. Reviewing and responding to this takedown notice required ISL's effort and money, and, likely as intended by Doe, damaged ISL's relationship with SwimSwam, the most important media outlet in its industry. Such costs constitute an improper and undue expense where Doe filed its notice without investigation and/or any reasonable basis.

13. Doe's takedown notice materially misrepresented the nature of the material it alleged was infringing. As noted, ISL owns all right, title, and interest in and to the ISL Content subject to the takedown notice. As such, Doe's notice claiming it owned the rights to the ISL Content is deficient and false.

14. By sending a takedown notice that knowingly and materially misrepresenting itself as having rights in the ISL Content, Doe has abused the DMCA's statutory takedown process and imposed unjustified expenses and burdens on ISL.

15. Such notices and the takedown damaged ISL's business interests by disrupting its business and its relationships, which in turn irreparably harms the goodwill of ISL and chills its free speech rights.

FIRST CAUSE OF ACTION

(Violation of the DMCA, 17 U.S.C. § 512(f))

16. ISL re-alleges and incorporates Paragraphs 1-15 of this Complaint as though fully set forth herein.

17. In the notice of claimed infringement submitted to YouTube demanding the removal of the ISL Content, Doe made knowing material misrepresentations that: (i) it had rights in and to the ISL Content, and (ii) the ISL Content infringed Doe's intellectual property rights, as described more fully above.

11

1 18. As a proximate result of Doe's conduct, ISL has suffered injury and
2 has been damaged in an amount subject to proof at trial to include actual damages,
3 including costs and attorneys' fees, incurred by ISL as permitted under 17 U.S.C. §
4 512(f).

SECOND CAUSE OF ACTION

(Declaration of Non-Infringement and Ownership)

7 19. ISL re-alleges and incorporates Paragraphs 1-18 of this Complaint as
8 though fully set forth herein.

9 20. Doe alleges that it holds copyright in and to the ISL Content and that
10 ISL (through SwimSwam) is directly and indirectly infringing Doe's copyrighted
11 works.

12 21. ISL denies that it has directly or indirectly infringed on Doe's
13 copyrighted works; ISL further alleges that it, not Doe, is the owner of all right, title
14 and interest in the ISL Content.

15 22. An actual and justiciable controversy exists between ISL and Doe
16 regarding the ownership of the ISL Content and the infringement thereof.

17 23. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 *et*
18 *seq.*, ISL requests a declaration from the Court that it owns the ISL Content and
19 that ISL, whether directly or indirectly through SwimSwam, does not infringe any
20 of Doe's copyrights, either directly or indirectly.

REQUEST FOR JURY TRIAL

22 || ISL hereby requests a jury trial.

PRAYER FOR RELIEF

WHEREFORE, ISL requests that this court:

- 25 a. Award ISL actual damages in an amount to be determined at trial, plus
26 interest;
27 b. Award ISL its costs of litigation, including attorneys' fees;
28 c. Declare that Doe owns no copyright interest in the ISL Content;

d. Declare that Doe's copyrights were not infringed by ISL directly or indirectly; and,

e. Order such relief as this Court deems proper.

Dated: October 23, 2018

FARELLA BRAUN + MARTEL LLP

By: /s/ Neil A. Goteiner
Neil A. Goteiner

Attorneys for Plaintiff, International Swimming League Ltd.